

REMARKS

Claims 1-79 are pending; claims 64-79 are withdrawn from consideration. In this Amendment applicants have cancelled claims 5, 19, 21, 23, 28, 52, 53 and 60-63 and have amended claims 1, 58 and 59.

Claims 1, 58 and 59 have been amended so that the fused six-membered ring containing Y and Z in Formula I is always a heterocyclic ring wherein either Y or Z is nitrogen. Support for this modification to formula I is found in the Specification for example on pages 2, line 2; pages 24-25, lines 24-25 and page 15 line 12-24 where it is indicated that either Y or Z is hydrogen.

In the Final Office Action dated September 29, 2003 various rejections are presented.

Rejection Under 35 USC 103:

Applicants presently respond to the rejection of independent claim 1 and to claims 3-5, 8-16, 19-20, 24-25, 30, 39, 45 and 47-48, all of which depend from claim 1, under 35 U.S.C. 103(a) as being allegedly unpatentable over Wakabayashi et. al. WO 97/03066 (the '066 patent).

The Examiner has asserted that compounds represented by formula VIII of the '066 patent (page 8 scheme A-III) are closely related to the scope of the original claim 1.

Applicants, by this amendment, have limited the scope of claim 1 so that the fused six-membered ring, which includes the ring atoms represented by Y and by Z, is always a heterocyclic ring comprising one nitrogen atom at the ring positions defined by Y or Z.

Amended claim 1 is not encompassed by the '066 patent and clearly distinguishes over the '066 patent in which the corresponding fused ring is always a benzo group precluding the presence of a ring nitrogen atom. The '066 patent defines the compounds of the invention as "substituted benzolactam compounds"; and there are no teaching or suggestions therein that the fused six-membered ring is a heterocyclic ring as claimed in the present invention.

Applicants respectfully submit that amended claim 1 is unobvious under § 103(a), and withdrawal of the instant rejection is requested.

Claims Objections

The terms “preferably” or “optionally substituted with one to three substituents preferably zero substituents....” recited at several places among claims 1-57 has been replaced by alternate terminology which is now clear and concise and should be deemed acceptable.

The copending application number in the 08 series on page 1 of the specification has been replaced by the corresponding issued patent number, namely US 6,180,647.

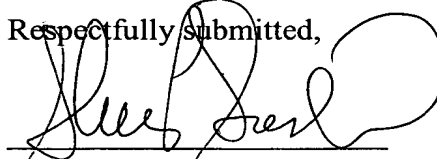
The year of the WO document recited on page 1 has been changed to 1994.

In claim 1, the proviso related to the definition of G has been amended so that when q is zero, G is the linking moiety -NH-, -S- or -O-, as required by structural formula I. In the original claim, when q is zero, G is improperly defined as a non-linking, pendant moiety, e.g. -NH<sub>2</sub>, which is inconsistent with structure I. The modification to the proviso in claim 1 is entirely consistent with and supported by structural formula I page 10-21 in the Specification.

No fee other than the fee for the two month extension of time authorized herein is believed necessary in connection with filing this Amendment. However, if any other fee is determined necessary for filing this Amendment, authorization is hereby given to change such fee to Deposit Account No. 16-1445.

Date: February 3, 2004

Respectfully submitted,



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